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Attorneys for Claimants/Respondents and Plaintiffs MATTHEW ISHAM, individually and as Guardian ad Litem for, HAYDEN ISHAM, a minor and ROXANNE BEST ISHAM

FILED IN THE UNITED STATES DISTRICT COURT DISTRICT OF HAWAII

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## UNITED STATES DISTRICT COURT

## DISTRICT OF HAWAII

IN THE MATTER OF THE Civil NO. CV05-00037 HG-BMK COMPLAINT OF BLUE [3 Consolidated Cases] DOLPHIN CHARTERS, LTD. AND TERRY DONNELLY, AS DECLARATION OF RICHARD A. OWNERS OF THE VESSEL LESSER M/V BLUE DOLPHIN, O/N 1082213, FOR **EXONERATION FROM** AND/OR LIMITATION OF LIABILITY,

	<ul> <li>HEARING:</li> <li>Date:</li> <li>Time:</li> <li>Courtroom: Aha Nonoi, 4<sup>th</sup> Floor</li> <li>Judge: The Hon. Helen Gillmor</li> <li>Jury Trial Date: April 11, 2006</li> <li>Judge: The Hon. Helen Gillmor</li> </ul>
MATTHEW ISHAM, individually and as Guardian Ad Litem for HAYDEN ISHAM, a minor; ROXANNE BEST ISHAM,	) CIVIL NO.: CV 04 00559 HG-BMK ) ) ) )
Plaintiffs,	) ) }
VS.	) )
BLUE DOLPHIN CHARTERS, LTD. and BLUE DOLPHIN DIVING, LTD., CAPTAIN ANDY'S SAILING, INC., DOES 1 - 50,	) ) ) )
Defendants.	) ) )

DENNIS CLAYPOOL,
SHERYL CLAYPOOL
individually and as Guardian ad
Litem for KRISTEN
CLAYPOOL, a minor, SCOTT
CLAYPOOL,

Plaintiffs,

vs.

CAPTAIN ANDY'S SAILING,
INC., BLUE DOLPHIN
CHARTERS, LTD. And BLUE
DOLPHIN DIVING, LTD.,

Defendants.

Defendants.

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## **DECLARATION OF RICHARD A. LESSER**

- I, Richard A. Lesser, declare:
- 1. I am an attorney duly licensed to practice law in the Courts of the State of Hawaii and before this Honorable Court. I make this declaration based upon my own personal knowledge and if called as a witness, I could and would competently testify to the following:
- 2. Attached hereto as Exhibit "1" is a true and correct copy of the face page of Blue Dolphin Charters, Ltd.'s Answer to First Amended Complaint to the Claypool action, filed November 15, 2004, page 2, and page 7 noting limitation as affirmative defense number 10.
- 3. Attached hereto as Exhibit "2" is a true and correct copy of the face page of Blue Dolphin Charters, Ltd.'s Answer to Seaman's Complaint to the

Isham action filed November 19, 2004, page 2, and page 9 noting limitation as affirmative defense number 10.

- 4. Attached hereto as Exhibit "3" is a true and correct copy of the first two pages of Blue Dolphin Charters, Ltd. And Terry Donnelly's Memorandum in Opposition to Isham's Motion for Partial Summary Judgment fled on December 8, 2005.
- 5. Attached hereto as Exhibit "4" is a true and correct copy of the Withdrawal and Appearance of Counsel and Order filed April 21, 2005 in the Isham action.
- 6. Attached hereto as Exhibit "5" is a true and correct copy of the Stipulation Preserving Captain Andy's Sailing, Inc.'s and Evans Pacific, Ltd.'s Limitation Rights and Apportioning Agreed Limitation Fund lodged in the Captain Andy's limitation action.
- 7. Attached hereto as Exhibit "6" is a true and correct copy of the First Amended Letter of Undertaking filed February 14, 2005 in the Captain Andy's limitation action.
- 8. Attached hereto as Exhibit "7" is a true and correct copy of the Order Directing Issuance of Notice, Publication Thereof and Restraining Order filed February 16, 2005 in the Captain Andy's action, exemption the Isham and Claypool actions from the stay.
- 9. Attached hereto as Exhibit "8" is a true and correct copy of the letter from attorney Hillsman to attorneys Lacy and Black dated January 21, 2005 in the Claypool action.

- 10. Attached hereto as Exhibit "9" is a true and correct copy of the letter from attorney Hillsman to attorney Lacy dated January 27, 2005 in the Claypool action.
- 11. Attached hereto as Exhibit "10" is a true and correct copy of the General Index/Abstract of Title, reflecting First Hawaiian Bank held a \$250,000.00 mortgage on the Blue Dolphin.
- 12. Attached hereto as Exhibit "11" is a true and correct copy of an e-mail from declarant to attorney Steiner dated January 13, 2006.
- 13. Attached hereto as Exhibit "12" is a true and correct copy of an e-mail from declarant to attorney Steiner dated January 14, 2006.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 18th day of January, 2006 at Redondo Beach, California.

Richard A. Lesser

Z/Isham/Pleadings/Blue Dolphin Charters - Limitation Liability Complaint/RL declaration re Opposition to Lexington's Motion to Withdraw Limitation Bond wpd